

Appl. No. 09/470,100
Amdt. Dated June 16, 2005
Reply to Office Action of April 19, 2005

REMARKS/ARGUMENTS

This Amendment is in response to a Final Office Action mailed April 19, 2005. An Examiner's Interview was conducted on June 3, 2005 in which the subject matter of the remarks presented below was discussed. Claims 12-15 have been cancelled without prejudice. Applicants reserve the right to present these and additional arguments regarding the allowability of the pending claims if an appeal is warranted.

Applicants respectfully request the Examiner to contact the undersigned attorney if further discussion concerning the allowability of the pending claims will facilitate prosecution of the subject application. The undersigned attorney may be contacted at the phone number listed below.

Rejections Under 35 U.S.C. § 112, second paragraph

In the Office Action, claim 21 was objected due to an informality. Claim 21 has been amended to alter the antecedent basis for "electronic system guide" as requested by the Examiner. Based on the foregoing, withdrawal of the objection is respectfully requested.

Rejections Under 35 U.S.C. § 103(a)

A. REJECTION OF CLAIMS 5-8, 12-15 AND 21

Claims 5-8, 12-15 and 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Broberg (U.S. Patent No. 6,529,680) in view of Stinebruner (U.S. Patent No. 6,133,910). Applicants respectfully traverse the rejection because a *prima facie* case of obviousness has not been established.

As the Examiner is aware, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. See *MPEP* § 2143; see also *In Re Fine*, 873 F. 2d 1071, 5 U.S.P.Q.2D 1596 (Fed. Cir. 1988). Herein, at a minimum, the combined teachings of the cited references do not describe or suggest all of the claim limitations.

With respect to claim 5, neither Broberg nor Stinebruner, alone or in combination, suggest a selector controlled by the processor to (1) select a first default source of the plurality of sources *in response to detecting a non-overlapping channel number* for television programs provided by the plurality of sources, and (2) select a second default source of the plurality of sources *in response to detecting an overlapping channel number* for television programs provided by the plurality of sources.... *Emphasis added.*

Broberg teaches a television system with multiple audio/video sources. A channel map decision list (60) is formed where it is assumed that channels 2-99 are cable (analog) channels

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while channels 100-999 are assumed to be digital channels. More specifically, upon initialization of the VCR, according to Broberg, channels 2-99 are scanned and added to the list (60). The VCR repeats this process for the digital satellite receiver, stepping through channels 100-999. In contrast with the Office Action, such selection is not *in response* to detecting a non-overlapping channel number or an overlapping channel number. Rather, it is arbitrarily assumed prior to any operations because cable channels are presumed to rarely exceed 99. *See col. 5, lines 39-40 of Broberg.*

Stinebruner is directed to a video system including a "virtual tuner" that integrates signals from multiple video sources. Each virtual channel is associated with a video source along with a channel of the video source. Local channels may be automatically incorporated at corresponding virtual channels, whereby existing channels on other sources would be moved to other virtual channels. In essence, Stinebruner involves a programming process where sources are not selected based on the detection of overlapping or non-overlapping conditions, but rather, local channels are merely numbered to ensure the same channel number on the tuner. This differs from the claimed invention where a *first default source* is selected *in response to detecting a non-overlapping channel number* and a second default source is selected *in response to detecting an overlapping channel number*. *Emphasis added.*

Summary, the combined teachings of Broberg and Stinebruner are merely directed to substitution of local channels, but there is no teaching or suggestion of selecting *default sources in response* to detecting overlapping or non-overlapping channel numbers.

Consistent with the argument presented above, with respect to claim 21, neither Broberg nor Stinebruner, alone or in combination, suggest (1) display[ing] *at least one pop-up for selecting a first source...and a second source* of the plurality of sources, and (2) automatically programming the channel number to *tune to a station* for receiving television programs *provided by the selected first default source in response to the channel number being the non-overlapping channel number* and programming the channel number to *tune to a station* receiving television programs *provided by the selected second default source in response to the channel number being the overlapping channel number*. *Emphasis added.* As stated above, it is noted that the combined teaching of Broberg and Stinebruner is directed away from selecting a particular "default" source *in response* to detecting overlapping or non-overlapping channel numbers.

In light of the foregoing, Applicants respectfully request the Examiner to allow claims 5 and 21 as well as those claims dependent therefrom.

B. REJECTION OF CLAIMS 1-4

Claims 1-4 were rejected under 35 U.S.C. §103(a) as being unpatentable over Broberg in view of Morrison (U.S. Patent No. 6,359,580). Applicants respectfully traverse the rejection because, again, a *prima facie* case of obviousness has not been established.

Similar to the arguments set forth above, neither Broberg nor Morrison, alone or in combination, suggests an electronic program guide (EPG) including a user-selected option to cause an auto-program to be processed. The auto-program, as claimed, causes a display of at

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least one pop-up for selecting a first source of the plurality of sources from the electronic system guide as a first default source and a second source of the plurality of sources as a second default source. Furthermore, the auto-program, when processed, automatically programs the channel number to tune to a station for receiving television programs provided by the selected first default source *in response to the channel number being the non-overlapping channel number* and program the channel number to tune to a station receiving television programs provided by the selected second default source *in response to the channel number being the overlapping channel number. Emphasis added.* Arguments regarding the allowability based on this responsive behavior are set forth above. It is respectfully submitted that the combined teachings of Broberg and Morrison do not provide any suggestion of the claimed limitations.

In light of the foregoing, Applicants respectfully request that claim 1 and dependent claims 2-4 be allowed at the Examiner's earliest opportunity.

C. REJECTION OF CLAIMS 18-20, 22 AND 23

Claims 18-20, 22 and 23 were rejected under 35 U.S.C. §103(a) as being unpatentable over Broberg in view of Stinebruner and Farleigh (U.S. Patent No. 6,208,388). Applicants respectfully traverse the rejection because a *prima facie* case of obviousness has not been established and incorporates the arguments set forth in Section A of the Remarks section.

In summary, Applicants respectfully request that the Examiner to reconsider and withdraw the §103(a) rejection of claims 1-8 and 18-23 under 35 U.S.C. § 103(a). As previously stated, the undersigned attorney invites the Examiner to contact him if further elaboration would facilitate prosecution and allowance of the subject application.

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Conclusion

Applicants respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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Dated: June 16, 2005

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Susan McFarlane

June 16, 2005

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